

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

TOBY EATON,

Defendant.

No. 7:15-cr-00280-RAJ-28

**DEFENDANT’S CORRECTED MOTION FOR LEAVE TO FILE REPLY BRIEF AND
EXTENSION OF TIME TO FILE REPLY BRIEF**

Toby Eaton, by and through counsel, Fraser Holmes, respectfully requests this Court allow defendant to file a reply brief in support of his Renewed Emergency Motion for Compassionate Release filed on April 19, 2021 (Dkt. 1492). Counsel respectfully requests until June 25, 2021 to file the reply brief.

1) On June 12, 2020, Mr. Eaton filed, *pro se*, a Motion to Reduce his sentence under 18 U.S.C. § 3582(c)(1)(A) (Dkt. 1453). This Court denied the motion on July 30, 2020 (Dkt. 1456).

2) Subsequently, Mr. Eaton contacted current *pro bono* counsel for assistance in seeking compassionate release. *Pro bono* counsel reached out to local counsel, Fraser Holmes, to assist in this matter and based on this request, on April 16, 2021, counsel entered their Notice of Attorney Appearance in this matter (Dkt. 1487).

3) *Pro bono* counsel filed their Motion to Appear Pro Hac Vice on April 16, 2021 (Dkts. 1488, 1489, 1490, 1491), which was approved by this Court on April 19, 2021.

4) On February 3, 2021, Mr. Eaton, through counsel, filed a Renewed Emergency Motion for Compassionate (Dkt. 1492) of his original motion to reduce his sentence under 18 U.S.C. §3582(c)(1)(A).

5) The attorney for the government assigned to this case filed a response to Mr. Eaton's motion on June 1, 2021 (Dkt. 1499).

6) Counsel now seeks leave from this Court to file a reply brief in this case. Counsel requests additional time to gather and evaluate Mr. Eaton's BOP records and other materials in order to fully and adequately address Mr. Eaton's legal issues before this Court in the reply brief. As such, counsel requests until June 25, 2021 to file the reply brief.

7) Defense counsel has reached out to the attorney for the government assigned to this case who has advised that the government intends to oppose this motion.

WHEREFORE, for the reasons stated above, Mr. Eaton, through counsel, respectfully requests leave to file a reply brief and an extension of time to file the reply brief on June 25, 2021.

Dated: June 8, 2021

Respectfully Submitted,

/s/ Fraser Holmes

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CERTIFICATE OF CONFERENCE

I, Benjamin Sacks, counsel for Mr. Eaton, hereby certify that on this 8th day of June, 2021, I conferred with attorney Lance Kennedy of the United States Department of Justice regarding this Motion. The Government indicated that it intends to oppose this Motion. Otherwise, agreement could not be reached as to the issues involved.

By: /s/ Benjamin Sacks

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CERTIFICATE OF SERVICE

I, Fraser Holmes, hereby certify that on this 8th day of June, 2021, I electronically served the foregoing document upon all counsel of record via the Court's CM/ECF system for the Western District of Texas, Midland-Odessa Division.

By: /s/ Fraser Holmes

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